

THE TAKEOVER PANEL

PETROCON GROUP PLC ("PETROCON")/JAMES WILKES PLC ("WILKES")

Breaches of Rule 2.2(c), (d) and (e): **when an announcement is required**

The Panel Executive has examined the events surrounding the 26% rise in the price of Wilkes' shares which preceded the announcement on 20 January that Wilkes had received an approach "which may lead to an offer being made for the whole of the share capital of the company". The Executive has concluded that an earlier announcement should have been made.

On 10 January Henry Cooke Lumsden plc bought in the market 500,000 shares in Wilkes at 140p on behalf of Petrocon, equivalent to 2.8% of Wilkes' issued ordinary shares.

Between 8 and 16 January (the day before Robert Fleming & Co Limited were appointed financial advisers to Petrocon) a significant number of institutional shareholders in Petrocon and Wilkes were approached in confidence by Henry Cooke Corporate Finance Ltd ("Henry Cooke") and Smith New Court Corporate Finance Ltd ("Smith New Court"). The purpose was to establish shareholders' attitudes to a possible offer by Petrocon for Wilkes. Rule 2.2(e) of the Code requires the Panel to be consulted before discussions are extended to include more than a very restricted number of people (outside those who need to know in the companies concerned and their immediate advisers). No such consultation took place.

By 3.00pm on 15 January the Wilkes share price was over 10% higher than the price of 140p paid by Petrocon three business days earlier. In terms of the note on Rule 2.2 this is to be regarded as an untoward movement and requires the Panel to be consulted if it is not proposed to make an immediate announcement. No consultation occurred on 15 or 16 January.

The Executive considers that Henry Cooke and Smith New Court were responsible for breaches of Rule 2.2(d) and (e). They were both aware that more than a very restricted number of people were being approached about the proposed offer for Wilkes. They did not consult the Panel as required by Rule 2.2(e) and they should have recognised that there were reasonable grounds (ie the purchase of Wilkes shares and the shareholder meetings) for concluding that it was their actions which led to the untoward movement in the Wilkes share price. They are both criticised accordingly.

Petrocon made its approach to Wilkes at the close of business on Friday 17 January and inconclusive discussions were held over the weekend. Wilkes was then being, and continues to be, advised by N M Rothschild & Sons Limited ("Rothschilds"). By shortly after 11.00am on Monday 20 January the Wilkes share price had risen by a further 11%. The announcement referred to at the beginning of this statement was not made until shortly after 3.00pm.

The Executive considers that Rothschilds were primarily responsible for a breach of Rule 2.2(c) by not making a prompt announcement on behalf of Wilkes on 20 January when, following a weekend of inconclusive talks, there had been an untoward movement in the Wilkes share price by 11.00am that morning.

The Executive wishes to underline the importance of prior consultation with the Panel and of making timely announcements in accordance with Rule 2 of the Code.

6 February 1992

Notes to Editors

Rule 2.2 When an announcement is required

An announcement is required:-

- (a);
- (b);
- (c) when, following an approach to the offeree company, the offeree company is the subject of rumour and speculation or there is an untoward movement in its share price;
- (d) when, before an approach has been made, the offeree company is the subject of rumour and speculation or there is an untoward movement in its share price and there are reasonable grounds for concluding that it is the potential offeror's actions (whether through inadequate security, purchasing of offeree company shares or otherwise) which have led to the situation;
- (e) when negotiations or discussions are about to be extended to include more than a very restricted number of people (outside those who need to know in the companies concerned and their immediate advisers). An offeror wishing to approach a wider group, for example where a consortium to make an offer is being organised or where irrevocable commitments are being sought, should consult the Panel; or
- (f)

Note on Rule 2.2

Panel to be consulted

A movement of approximately 10% should be regarded as untoward for the purposes of Rule 2.2(c), (d) and (f). When there is such a movement or the offeree company is the subject of rumour and speculation, the Panel should be consulted if it is not proposed to make an immediate announcement.